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11 Attorneys for Plaintiff The Procter & Gamble Company

12
UNITED STATES DISTRICT COURT
 13
NORTHERN DISTRICT OF CALIFORNIA
 14
SAN FRANCISCO DIVISION

15 THE PROCTER & GAMBLE COMPANY,) Case No.: 3:08-cv-00930 PJH
 16)
 v. Plaintiff,)
 17)
 18 KRAFT FOODS GLOBAL, INC.,) **THE PROCTER & GAMBLE**
) **COMPANY'S REPLY TO KRAFT'S**
) **COUNTERCLAIM**
 19 Defendant.)
 20)

21 Plaintiff The Procter & Gamble Company ("P&G") hereby replies to the Counterclaim of
 22 Defendant Kraft Foods Holdings, Inc. ("Kraft"):

23 **COUNTERCLAIM**

24 P&G replies as follows:

25 1. P&G admits that Kraft, by asserting its Counterclaim, purports not to concede and
 26 expressly disputes the propriety of this action going forward in light of the pending reexamination of
 27 the '418 patent. Except as expressly admitted, P&G denies the remaining allegations in paragraph 1.

1 2. P&G admits that Kraft counterclaims against P&G pursuant to the patent laws of the
2 United States in Title 35 of the United States Code, with a specific remedy sought based upon the laws
3 authorizing actions for declaratory judgment in the courts of the United States in 28 U.S.C. §§ 2201
4 and 2202 and Rule 13 of the Federal Rules of Civil Procedure. Except as expressly admitted, P&G
5 denies the remaining allegations in paragraph 2.

THE PARTIES

3. P&G admits the allegations of paragraph 3 of the Counterclaim.
4. P&G admits the allegations of paragraph 4 of the Counterclaim.

JURISDICTION AND VENUE

10 5. P&G admits the allegations of paragraph 5 of the Counterclaim.

11 6. P&G admits the allegations of paragraph 6 of the Counterclaim.

12 7. P&G admits the allegations of paragraph 7 of the Counterclaim.

COUNTERCLAIM – DECLARATORY JUDGMENT

8. P&G admits the allegations of paragraph 8 of the Counterclaim.

FIRST COUNT

DECLARATION OF NON-INFRINGEMENT OF THE '419 PATENT

17 9. P&G admits that Kraft restates and incorporates by reference each of the allegations of
18 paragraphs 1 through 8 of its Counterclaim. Except as expressly admitted, P&G denies the remaining
19 allegations in paragraph 9.

10. P&G admits the allegations of paragraph 10 of the Counterclaim.
11. P&G admits the allegations of paragraph 11 of the Counterclaim.
12. P&G denies the allegations of paragraph 12 of the Counterclaim.

SECOND COUNT

DECLARATION OF INVALIDITY OF THE '419 PATENT

25 13. P&G admits that Kraft restates and incorporates by reference each of the allegation of
26 paragraphs 1 through 12 of its Counterclaim. Except as expressly admitted, P&G denies the remaining
27 allegations in paragraph 13.

14. P&G admits the allegations of paragraph 14 of the Counterclaim.

15. P&G denies the allegations of paragraph 15 of the Counterclaim

JURY DEMAND

16. P&G admits that Kraft purports to demand a jury trial on all issues and claims so triable.

PRAAYER FOR RELIEF

P&G prays that Kraft take nothing by its Counterclaim, that judgment be entered for P&G and against Kraft on Kraft's Counterclaim, that this be found to be an exceptional case, and that P&G be awarded attorney fees, costs and interest and such other and further relief as the Court may deem just and proper.

The electronic filer hereby attests that the individual whose name appears below has signed this document. See General Order 45, Section X.

DATED: June 6, 2008

HOWREY LLP

BY: /s/ William C. Rookridge

William C. Rooklidge
Attorneys for THE PROCTER & GAMBLE
COMPANY